

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

AMANDA POLLOCK, Individually and)	Civil Action Number: 1:16-cv-00582-JMC
as Next Friend of Benjamin B., a Minor,)	
)	
Plaintiff,)	
)	
vs.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

STIPULATION OF DISMISSAL WITH PREJUDICE

The parties hereby stipulate to dismissal of this case with prejudice pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure with the understanding that this dismissal does not affect Plaintiff's right to proceed in state court against parties other than the United States, its agents, employees or others entitled to coverage under the Federal Tort Claims Act ("FTCA").

Plaintiff agrees to this dismissal based upon Defendant's arguments in its Motion to Dismiss (ECF No. 17) that this Court lacks subject matter jurisdiction because the allegations of medical malpractice during the delivery of Plaintiff's son on May 4, 2011, do not qualify for FTCA coverage because the physician who delivered Plaintiff's son on that date was acting on behalf of his private practice and not as a federal employee and because the physician billed and received payment for the delivery of Plaintiff's son in his capacity as a private physician who maintained his own private practice so that he is not entitled to coverage under the FTCA.

Respectfully Submitted,

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